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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/727,575

12/05/2003

Uwe Folgmann

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23373

7590

12/18/2006

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EXAMINER

CLEMENT, MICHELLE RENEE

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 12/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/727,575	Applicant(s) FOLGMANN ET AL.	
	Examiner Michelle (Shelley) Clement	Art Unit 3641	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30, 32-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 and 32-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection as necessitated by applicant's amendments.

### ***Drawings***

2. The drawings were received on 9/22/06. These drawings are approved.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-30 and 32-34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not clear to the examiner how the cover is opened by the ammunition upon deployment, merely restating the exact language in both the claims and specification does not in itself necessarily enable one skilled in the art to make and/or use the invention. It is not clear if applicant means the gas pressures built up by the ammunition opens the cover arrangement or if the ammunition itself hitting the cover opens the cover arrangement. If the later is the case it is not clear to the examiner how the cover arrangement is not destroyed in the process or how the trajectory of the ammunition is not displaced. Or does applicant intend the ammunition to open the cover arrangement in a different manner? It is not clear to the examiner how this is accomplished.

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5. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the launcher including a closable hatch, does not reasonably provide enablement for the hatch being a *squeeze lock*. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims. It is not clear to the examiner how the hatch **itself** is a squeeze lock or even what a squeeze lock is. Applicant has not defined what a squeeze lock is, the term is not one known in the art and the figures do not adequately show the element to apprise one of ordinary skill in the art what one is.

6. Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not clear to the examiner how the ammunition opens the cover arrangement so that the cover arrangement closes subsequent to the deployment (See ¶ above).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-9, 11-16, 18-23, 27, 29, 30, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'ooge (US Patent # 3,499,364) in view of Deckard et al. (US Patent # 6,686,866). D'ooge discloses a device for deploying ammunition (reference 42), wherein a recess

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in a body shell of a mobile object provided for ammunition deployment is covered by a cover arrangement (reference 26), wherein the cover arrangement is opened by the ammunition upon deployment. The ammunition is deployed with a launcher located inside of the body shell of the object. The launcher has at least one discharge tube. The launcher terminates flush with the body shell of the object. The discharge tube is arranged inside of the body shell, so that loading of the discharge tube is possible from the inside. The discharge tube is accommodated in a launcher housing. The launcher is fixedly connected with the inside of the body shell. A gas-tight seal is provided at least between an opening of the launcher housing and the body shell or between a loading hatch and a loading opening of the launcher housing. The launcher housing is provided with outlet means and a connection facility for control with the aid of electrical ignition means (column 3, lines 5-20) including grounding means (all electrical circuits include grounding means) (See figure 9) and a blow-off valve and an interior hatch through which loading of the discharge tube takes place. The object is selected from the group consisting of land vehicles, aircraft and water craft. The cover arrangement covers the recess. The cover arrangement can be closed subsequent to deployment (when it is found and reused). The hatch is arranged as a single hatch. The device further comprising a splash-proof protective cover, which is removed by a first discharge of the ammunition. A snap-in device retains the protective cover. Although D'ooge does not expressly disclose the cover arrangement reducing a radar signature caused by the recess or the cover including a camouflage hatch of radar-reflecting type, Deckard et al. does. Deckard et al. teaches a radar absorbing covering for ammunition launchers, in order to protect the munitions. D'ooge and Deckard et al. are analogous art because they are from the same field of endeavor: ammunition launchers. Therefore, it would have been obvious to one of

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ordinary skill in the art at the time the invention was made to combine the radar absorbing covering as suggested by Deckard et al. with the launcher as disclosed by D'ooge. The suggestion/motivation for doing so would have been to obtain a launcher that was protected from exposure to enemy radar as suggested by Deckard et al. D'ooge and Deckard et al. disclose the claimed device except for the specific distance the launcher is located from the body shell of the object. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the launcher located at a distance of 0-20 (0.5-15.0 or 1-5) cm from the body shell of the object, since it has been held that discovering an optimum value of a result effective variable or discovering the optimum or workable ranges involves only routine skill in the art and applicant has not disclosed that the claimed ranges are critical to the invention and it appears that the invention would work equally well at any distance between the launcher and the body.

9. Claims 24-26, 28 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'ooge as modified by Deckard et al. as applied to claims 1, 21 and 27 above, and further in view of Elkouh et al. (US Patent # 6,444,592). Although neither D'ooge nor Deckard et al. expressly disclose the specific material of the cover arrangement, Elkouh et al. does. Elkouh et al. teaches a cover for inhibiting corrosion of a metallic object the cover including an elastic material provided with a radar-scattering coating made of a metal which is radar reflecting and including a rubber material. D'ooge, Deckard et al. and Elkouh et al. are analogous art because they are from similar problem solving areas: reducing radar signature. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the material as suggested by Elkouh et al. with the device of D'ooge as modified by Deckard et al. since it has been held to be within the general skill of a worker in the art to select a known

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material on the basis of its suitability for the intended use as a matter of obvious design choice.

*In re Leshin*, 125 USPQ 416.

10. Claim 1 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Facciano et al. (US Patent Application 2002/0189432) in view of Kuchta et al. (US Patent # 6,123,005).

Facciano discloses a device for deploying ammunition wherein a recess in a body shell of a mobile object provided for ammunition deployment is covered by a cover arrangement and wherein the ammunition upon deployment opens the cover arrangement. Wherein a plurality of launchers are provided for deploying the ammunition and a plurality of adapters are respectively provided between the launchers and the body shell and forming a plurality of differing inclinations between the launchers and the body shell to provide a range of angles of deployment of the ammunition in lateral pointing and elevation. Although Facciano et al. does not expressly disclose that the cover arrangement reduces a radar signature caused by the recess, Kuchta et al. does. Facciano et al. and Kuchta et al. are analogous art because they are from the same field of endeavor: launchers. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the radar reducing cover as suggested by Kuchta et al. with the launcher as disclosed by Facciano et al. The suggestion/motivation for doing so would have been to obtain a launcher that had reduced electromagnetic interference.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

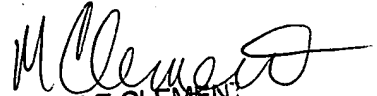
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Clement whose telephone number is 571.272.6884. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
MICHELLE CLEMENT  
PRIMARY EXAMINER